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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,316	09/10/2004	Edward E. Kelley	FIS920040064	5315
32074 7590 08/17/2007 INTERNATIONAL BUSINESS MACHINES CORPORATION DEPT. 18G BLDG. 300-482 2070 ROUTE 52 HOPEWELL JUNCTION, NY 12533			EXAMINER BOND, CHRISTOPHER H	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 08/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,316

Applicant(s)

KELLEY ET AL.

Examiner

Christopher H. Bond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/10/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement filed September 10, 2004 has been acknowledged.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al., US PUB 2002/0198044, (Walker).**

3. As to claims 1, 13, and 18, Walker presents a method and apparatus for facilitating a secondary wager at a slot machine and discloses (paragraph [0020]), "...the...game of chance may be based on player input. For example, player input may indicate a prediction by the player regarding the outcome of the...game." Walker further discloses (paragraph [0158]), "...the player inputs a selection to the gaming device...in placing the wager. For example, in a...game based on reel slot machine game, the gaming device...may prompt the player to select one of the various reel symbols and to pick one or more reels. In another example, the gaming device...prompts the player to select one of the various reel symbols...and to pick one or more displayed reel stops in a multi-lined slot machine game." Walker further discloses, (paragraphs [0201-0203]), "...the gaming devices...may operate to determine odds for various outcomes of the secondary of chance....the probability of probabilities associated with a...game may be determined based on the type of...game. For example, one or more probabilities may be retrieved from a database...based on the...game type, such as a dice roll simulation

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or reel symbol prediction game...once a...wager is received, [the] gaming device...looks up a corresponding probability for the side bet in the...game probability database....For example, if the player makes a...wager predicting a "CHERRY" reel symbol will show anywhere on the first reel of a slot machine, the slot machine can look up a corresponding probability...that the player will accurately predict the outcome." This would anticipate the applicant's limitation of a system operable to: permit a user to select a number of events for which an outcome is not known (select reel symbols, reel stops, dice rolls, etc.) and automatically indicate to the user a predicted result based on probability that a predetermined outcome will occur among the user-selected number of events.

4. Furthermore, the method and recording medium having instructions recorded thereon for performing the method comprised of: a user selecting a number of events for which an outcome is not known, and automatically indicating to the user a predicted result based on a probability that a predetermined outcome will occur, merely disclose the steps of the system's operation. Since each element of the method must be implemented to make the system, and since the method requires the recording medium for executing the method, the method and recording medium would have been inherent in view of the device.

5. As to claims 2-5, 7, 8, 11, 12, 14, and 19, Walker discloses (paragraph [0093]), "The example secondary wagers have one or more corresponding parameters, or criteria, that may be used to determine whether the player wins the secondary wager. Such criteria may include, but are not limited to: a wager amount, a reel, a position, a

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payline, a position on a representation of a game board, a represented game piece or token, a reel symbol, a card, a payout, an event, a probability, a number of symbols, a number of positions, a number of plays, a number of spins, a number of cards, a number of hands, a number of turns or selections in a bonus round or bonus game, a time, a period of time, a number of players, a number of slot machines, an amount won, an amount lost, a game device, and a player." Walker further discloses (paragraphs [0108-0110]), "...the criteria may correspond to a period of time. For example, the player may predict how long it will take to achieve one or more criteria. For instance, the player may place a...wager specifying that it will take less than ten minutes to get a winning outcome in a primary game. In another example, the player places a secondary wager on his guess that he will accumulate ten or more "CHERRY" reel symbols in the next five minutes... the player may make a prediction corresponding to a specified time or event. For example, the player may place a...wager predicting that he will win more than a specified amount, or accumulate a number of reel symbols, before a time or event...Numerous different example criteria are described...with respect to...wagers. It will be understood that any number of criteria may be associated with a particular...wager, and further understood that a player may place more than one...wager at one time." Walker further discloses (paragraphs [0134]) that, "...a game probability database...defines a number of fields for each of the entries or records...The fields may include...a random number field...that stores a representation of a number associated with the outcome; and...an expected hits per cycle field...that stores a representation of an expected number of times the particular outcome will occur within a

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"cycle" of plays..." Walker further discloses (paragraphs [0174, 0178, and 0181]), "For a gaming device-type dispensing device in particular, payouts may include: cash; credits; gambling tokens; reward points; increased odds of winning; increased prize tables; insurance against losses; the ability to play a large denomination machine for a small denomination; the free use of an extra slot in a multi-slot machine; being permitted to play for free; having winnings rounded to a higher level (e.g., \$50 rounded to \$75); the enablement of extra prize-winning symbols on a slot machine; the enablement of extra pay lines on the slot machine; discounts on various products; and auxiliary payouts, such as free (or subsidized) meals or hotel rooms... the payout is based on the statistical likelihood that the...wager will be successful... the payout is dispensed to the player by the gaming device...as coins or tokens, preferably via a payout dispenser...such as those possessed by slot machines for dispensing tokens. In other embodiments, the payout is provided to the player as free spins or as an amount credited to an account balance of the player. In yet other embodiments, the gaming device...rewards the player by turning on one or more "pay-to-play" features of a...game, such as by making the player eligible for one or more bonus games. In still other embodiments, the gaming device...provides a receipt or tickets redeemable for cash, credit, products, or services." Walker further discloses (paragraph [0203]), "...once a...wager is received, [the] gaming device...looks up a corresponding probability..." Walker provides both a game based on select time points---i.e. x number of events occurring within a certain time, and has a variety of payout options---including pay-to-play, that is to say, rewarding a player by allowing them to play one or more

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bonus games. This is akin to the applicant's limitation of crediting a user's account with an amount of money to play a game based on a desirable result--i.e. allowing the player to play a game. Walker also bases the payout on the statistical likelihood that the wager will be successful. In this regard, this would anticipate the applicant's limitation of providing a payout for another purpose other than allowing the player to play the game (pay to play as described by Walker).

6. Furthermore, the recorded medium having instructions recorded thereon for perform the method further comprising: selecting a time point in the user-selected number of events, at which a desirable result is predicted, crediting an account for the user with a first amount according to the desirable result, permitting the user to utilize the first amount for determining outcomes of events; and after a minimum number of events have occurred, permitting the user to utilize a second amount in the account for a purpose other than determining outcomes of events, merely discloses a means for performing a method--essentially, steps of the system's operation. Since each element of the method must be implemented to make the system, and since the method requires the recording medium for executing the method, the method and recording medium would have been inherent in view of the device.

7. Regarding the methods of claims 2 and 7, as discussed and exemplified above, Walker discloses a player predicting and wagering on getting 10 cherry symbols in the course of 5 minutes of game play. This would anticipate the applicant's method, wherein the plurality of events are ordered sequentially in time in one or more games of chance.

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8. The methods of claims 3, 11, and 12, requiring collecting a payment from the user prior to indicating the probability to the user, wherein the number of the plurality of events is selected by the user and the amount of the payments collected from the user varies according to the selected number of events, and displaying the predicted result graphically to the user is discussed by Walker above (Walker paragraphs [0110 and 0203]).

9. Regarding the method of claim 4, as discussed above, Walker's system determines the probability of user selected outcomes. Walker also discusses that the probability can be calculated over a cycle of plays--that is to say, the user selected outcome will occur x number of time within x number of plays. This would anticipate the applicant's limitation of a method, wherein the predetermined outcome is a randomly determined result of each event, and the predicted result is determined by simulating randomly determined outcomes of a future sequence of events (Walker's determining probability of event based on cycle of plays).

10. Regarding claims 5 and 8, as discussed above, these methods merely disclose steps of the system's (as disclosed in applicant's claim 14) operation. Since each element of the methods must be implemented to make the system, the methods would have been inherent in view of the device.

11. Regarding claims 6, 15 and 20 the limitations of the method, system, and recording medium having instructions for performing a method described by the applicant, further comprising decreasing the probability that the predetermined outcome will occur until at least the minimum number of events have occurred, would have been

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inherent to the system described by Walker. For example, in keeping with Walker's example of a player predicting 10 cherry symbols within the course of 5 minutes of game play, as time winds down in game play, if a player hasn't achieved the requisite number of cherry symbols as predicted, the probability of attaining the symbols becomes increasingly less. Simply stated, the probability of attaining 10 cherry symbols within 5 minutes of game play is greater than the probability of attaining 10 cherry symbols within 1 minute of game play. Similarly, Walker's invention also predicts probabilities per game cycle--i.e. 10 spins. For sake of example within the spirit of Walker's invention, if a player were to predict 4 cherry symbols for 10 spin cycle, the probability of attaining 4 cherry symbols becomes increasingly less for each spin cycle in the 10 spin cycle in which a cherry symbol is not attained by the player.

12. Since each element of the method must be implemented to make the system, and since the method requires the recording medium for executing the method, the method and recording medium would have been inherent in view of the device.

13. As to claims 9 and 16, as discussed above, Walker discloses a player account, one or more games of chance (reels, dice, etc.), and permits the user to withdraw the second amount (credits, payout, cash, tokens, etc.), after the minimum number of events have occurred (statistical likelihood that the wager is successful--further exemplified by hits per cycle, symbol occurrence per time period, etc.). This would anticipate the applicant's limitation wherein the system is further operable to provide the account to the user from an operator of one or more games of chance, and permit the

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user to withdraw the second amount from the account after the minimum number of events have occurred.

14. The method of claim 9 merely discloses the steps of the system's (as disclosed in applicant's claim 16) operation . Since each element of the method must be implemented to make the system, the method would have been inherent in view of the device.

15. As to claims 10 and 17, as discussed above, Walker discusses that this system is performed on a slot machine.

16. The method of claim 10 merely discloses the steps of the system's (as disclosed in applicant's claim 17) operation . Since each element of the method must be implemented to make the system, the method would have been inherent in view of the device.

Citation of Pertinent Prior Art

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Baerlocher et al., USPAT 6,602,136; Yoseloff, USPAT 6,227,969; Singer et al., USPAT 6,893,342; and Vazquez et al., USPAT 4,965,053--as they all relate to game machines which receive wagers, in which the wager indicates at least one parameter which corresponds to a potential outcome of a game. Doganata et al., USPAT 7,089,250--as this invention predicts an event occurrence based on probability within a time interval; and Wright GB 2 092 342 A--which is used to predict the probable result of a football match.

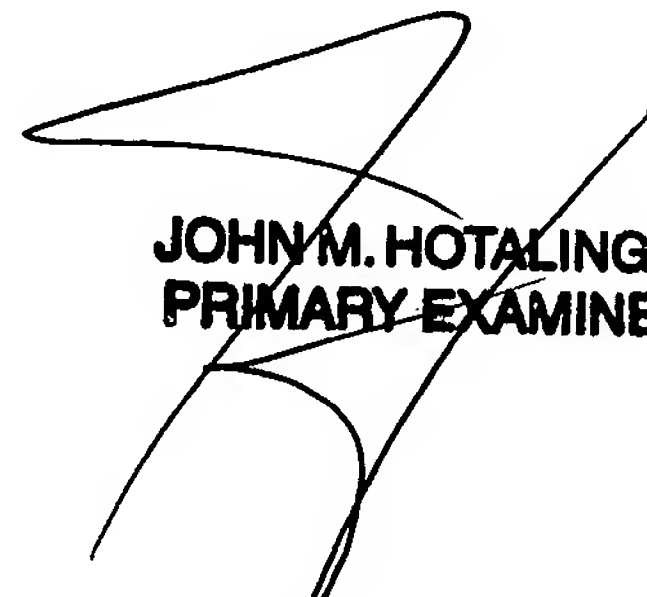
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Bond whose telephone number is (571) 272-9760. The examiner can normally be reached on M-F 9:30am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chris Bond


**JOHN M. HOTALING, II
PRIMARY EXAMINER**